

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

2:15-cv-01534-RCJ-VCF

ORDER AND JUDGMENT

This case arises out of an HOA foreclosure of real property. The Court has ruled that due process prevented the sale from extinguishing the first deed of trust. *See Bourne Valley Court Trust v. Wells Fargo Bank, N.A.*, 832 F.3d 1154 (9th Cir. 2016), *cert. denied* 137 S. Ct. 2296, 2297 (2017). Plaintiff Christiana Trust has submitted a proposed judgment as instructed, but the Court rejects it because it suggests the Chapter 116 sale was altogether void. Plaintiff prayed for such a declaration only in the alternative to a declaration that the deed of trust survived the sale. (See Compl. 14, ECF No. 1). The only remaining claim concerning the general validity of the sale appears in Defendant K&P Homes' Third Party Complaint against the previous homeowner Rita Wiegand, who appears to have defaulted on that claim over two years ago.¹

1 Although Wiegand is also named as a Defendant in the Complaint, Plaintiff does not appear
ever to have submitted a proposed summons to the Clerk.

1 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Judgment on the
2 Complaint and Counterclaim is entered in favor of Christiana Trust and against K&P Homes, a
3 Series LLC of DEK Holdings, LLC ("K&P Homes").

4 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Christiana Trust's
5 Deed of Trust recorded on July 25, 2007 as Instrument No.20070725-0005226 of the official
6 records of Clark County, Nevada was not extinguished by the May 31, 2013 foreclosure sale of
7 the Property commonly known as 7461 Glimmering Sun Avenue, Las Vegas, Nevada 89178;
8 APN 176-27-312-159 ("the Property") or the June 4, 2013 Foreclosure Deed (Instrument No.
9 20130604-0000600), and the Deed of Trust still encumbers the Property. Christiana Trust shall
10 have the right to foreclose or otherwise enforce the Deed of Trust with regard to the Property in
11 accordance with law and contract.

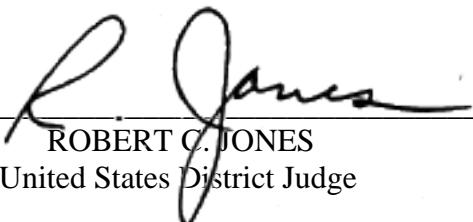
12 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that K&P Homes shall
13 recover nothing by way of its Counterclaim against Christiana Trust.

14 IT IS FURTHER ORDERED that the Clerk shall issue a Rule 4(m) notice as to
15 Defendant Rita Wiegand with respect to the Complaint.

16 IT IS FURTHER ORDERED that within fourteen (14) days of the entry of this Order and
17 Judgment, Defendant K&P Homes shall either ask the Clerk to enter default against Rita
18 Wiegand on the Third Party Complaint or file a notice of dismissal under Rule 41.

19 IT IS SO ORDERED.

20 Dated February 14, 2018.

21 
22 ROBERT C. JONES
23 United States District Judge
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